

**REMARKS**

Reconsideration and allowance of this application are respectfully requested. Currently, claims 2-8, 10-14, 23-29, 31-35 and 43-64 are pending in this application.

**Allowable Subject Matter:**

Claims 7-8, 28-29 and 43-44 are allowable.

**Rejections Under 35 U.S.C. §102 and 103:**

Claims 4, 25, 47, 50, 52 and 54 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Elliott et al (U.S. '177, hereinafter "Elliott") in view of Nomi et al. (U.S. '500, hereinafter "Nomi").

Nomi was filed in the U.S. Patent Office on September 5, 2000. Accordingly, Nomi is only effective as "prior art" as of its September 5, 2000 U.S. filing date. The present application is entitled to priority rights based on JP Application Nos. 11-282592 which was filed on October 4, 1999 and 2000-174573 filed on June 9, 2000 (i.e., each before the September 5, 2000 U.S. filing date of Nomi). Applicant's claim for foreign priority under 35 U.S.C. §119 and receipt of certified copies of priority documents have already been acknowledged by the USPTO.

English translations of JP Application Nos. 11-282592 and 2000-174573 and corresponding statements of accuracy are attached hereto. Applicant's foreign

priority claim under 35 U.S.C. §119 has thus been perfected. Applicant thus submits that Nomi does not qualify as “prior art” with respect to the claims of the present application. It is therefore not deemed necessary to discuss the technological deficiencies of this document and hence the combination of this document with Elliot.

Claims 2, 3, 5, 10, 12-14, 23, 24, 26, 31, 33-35, 45, 46, 49, 51 and 53 were rejected under 35 U.S.C. §102(b)<sup>2</sup> as allegedly being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as allegedly being obvious over Elliott. Applicant traverses these rejections.

Anticipation under Section 102 of the Patent Act requires that a prior art reference disclose every claim element of the claimed invention. See, e.g., *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1574 (Fed. Cir. 1986). Elliott fails to disclose (or even suggest) every claim element of the claimed invention. For example, Elliott fails to disclose or suggest “said character control program moves the moving character within the displayed game space at a moving speed related to the at least one of an amount and a direction of a tilt applied to said housing so that the moving character changes position relative to the displayed game space based on the at least one of an amount and a direction of tilt applied to the housing,” as required by independent claim 2. Independent

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<sup>2</sup> Elliot does not qualify as prior art under 35 U.S.C. §102(b) as alleged by the Office Action since it was not published as a printed publication more than one year to the U.S. filing date of the present application.

claim 23 requires similar limitations. Elloitt also fails to disclose or suggest “said character control program moves the moving character within the displayed game space at a moving speed related to the at least one of an amount and a direction of a sliding movement applied to said housing so that the moving character changes position relative to the displayed game space based on the at least one of an amount and a direction of sliding movement applied to the housing,” as required by independent claim 3. Independent claim 24 requires similar limitations.

In the rejection of claims 2-3 and 23-24, the Office Action makes repeated reference to paragraph [0051] of Elliott. Paragraph [0051] of Elliott states the following:

Controllers 56 may take a variety of forms and the controller depicted in FIG. 1A is only for illustrative purposes only. In this example, the controllers 56a,b include various function controlling push buttons such as 84a-c and X-Y switches 86a,b used, for example, to specify the direction (up, down, left or right) that a player controllable character displayed on television screen 60 should move. Other controller possibilities include joysticks, mice pointer controls, a keyboard, and a wide range of other conventional user input devices. The presently preferred controller for use in system 50 is disclosed in FIGS. 6 through 7 of the applicants' assignee's copending application Ser. No. 08/719,019, **[now USP 6,001,015 to Nishiumi et al]** entitled "Operation Controlling Device and Video Processing System Used Therewith", which application is incorporated herein by reference in its entirety (bracketed words added).

Independent claims 2 and 23 relate to moving a character within the displayed game space at a moving speed related to at least one of an amount and a

direction of a tilt applied to a housing so that the moving character changes position relative to the displayed game space based on the at least one of an amount and a direction of tilt applied to the housing. In contrast, the only tilting that Nishiumi discloses is the conventional tilting of a joystick to control a character in game space. See cols. 7-8 of Nishiumi. Tilting the housing of Nishiumi's controller 40 (i.e., Elliott's controller 56) itself will not move any character in the displayed game space.

In particular, Nishiumi explicitly states in col. 7, lines 29-36:

FIGS. 6 and 7 are external oblique-view drawings of a controller 40. The top housing of the controller 40 comprises an operation area in which a joystick 45 and buttons 403, 404A-F and 405 are situated adjacent 3 grips 402L, 402C and 402R. The bottom housing of the controller 40 comprises an operation area in which a button 407 is situated, 3 grips 402L, 402C and 402R and an expansion device mount 409 (emphasis added).

This portion of Nishiumi clearly and unambiguously discloses the controller housing and the joystick as distinct elements. Nishiumi's teaching of tilting of joystick does not teach or suggest tilting of a housing as claimed.

Independent claims 3 and 24 relate to moving a character within the displayed game space at a moving speed related to at least one of an amount and a direction of a sliding movement applied to a housing so that the moving character changes position relative to the displayed game space based on the at least one of an amount and a direction of sliding movement applied to the housing. In contrast

to this limitation, sliding the housing of Nishiumi's controller 40 (i.e., Elliott's controller 56) will not move any character in the displayed game space.

In the last phrase of section 4 (page 4), the Office Action alleges "where by sliding the input device would be the mouse moved left and right." Applicant disagrees with this allegation. Nishiumi and/or Elliot does not disclose any such mouse. The housing of Nishiumi's controller 40 (i.e., Elliott's controller 56) provides absolutely no mouse-like functionality based on sliding the controller housing.

Accordingly, Applicant requests withdrawal of the rejections under 35 U.S.C. §102 and 103.

**New claims:**

New claims 59-64 have been added and are deemed to be allowable at least for the reasons discussed above with respect to their respective base independent claims.

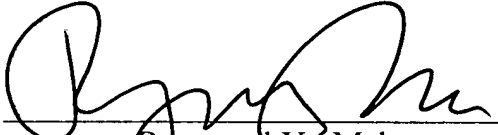
**MASUYAMA et al.**  
**Application No. 09/677,577**  
**March 14, 2008**

**Conclusion:**

Applicant believes that this entire application is in condition for allowance and respectfully requests a notice to this effect. If the Examiner has any questions or believes that an interview would further prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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